

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARLA BEHRMAN,

Plaintiff,

v.

PETER GRAYSON and MERRILL LYNCH,
PIERCE, FENNER & SMITH
INCORPORATED,

Defendants.

Civil Action No. 1:11-cv-03055-JSR

Hon. Jed S. Rakoff, U.S.D.J.

DEFENDANT PETER GRAYSON'S FIRST ARBITRATION PROGRESS REPORT

Defendant Peter Grayson ("Grayson") submits this arbitration progress report pursuant to the Court's order of September 2, 2011 (the "Order"). As the Court is aware, the Order granted the Defendants' motion to compel arbitration and to stay this action, and ordered the parties to promptly proceed to arbitration. Despite the Court's clear directive, Grayson has yet to receive any demand for arbitration or other process indicating that Plaintiff has commenced an arbitration proceeding. Plaintiff's dilatory behavior not only violates this Court's Order, but also severely prejudices Grayson. Accordingly, Grayson intends to move for dismissal under Fed. R. Civ. P. 41(b) if Plaintiff continues to delay in bringing this action to arbitration.

Dated: New York, New York
December 1, 2011

KATTEN MUCHIN ROSENMAN LLP

By: /s/ Jay W. Freiberg
Jay W. Freiberg
Jonathan A. Rotenberg

575 Madison Avenue
New York, New York 10022
Phone: (212) 940-8825
Fax: (212) 894-5825
Email: jay.freiberg@kattenlaw.com
Attorneys for Defendant Peter Grayson